

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE BENNETT ENVIRONMENTAL INC.,
SECURITIES LITIGATION

CIVIL ACTION NO. 04-CV-05852-LTS

Judge Laura Taylor Swain

**LEAD PLAINTIFFS' NOTICE OF MOTION
FOR APPROVAL OF FINAL DISTRIBUTION PLAN**

PLEASE TAKE NOTICE THAT, upon the accompanying Declaration of Stephen J. Cirami in Support of Approval of Final Distribution Plan, Lead Plaintiffs Metropolitan Capital Advisors, L.P. and Metropolitan Capital Partners III, L.P. hereby move this Court, on notice to Defendants' Counsel, for entry of the accompanying Order Approving Final Distribution Plan that will, *inter alia*:

- (i) Direct that Authorized Claimants who have not cashed their previously issued checks shall forfeit all rights to paid amounts;
- (ii) Approve the unpaid fees and expenses in the amount of \$55,163.12 incurred by The Garden City Group, Inc. ("GCG"), the Court-approved Claims Administrator, in connection with its administration of the Settlement, and authorize the payment of such unpaid fees and expenses out of the Settlement Fund to GCG;
- (iii) Because further redistribution of the Net Settlement Fund is not cost-effective, authorize the donation of the balance of the Net Settlement Fund, after payment of any additional costs or fees incurred in connection with administering the Net Settlement Fund, to the Federal Judicial Center;
- (iv) Authorize destruction of all copies of the Proof of Claim forms, supporting documents and Claimant correspondence, in whatever form or media they are maintained;
- (v) Release and discharge all persons involved in the review, verification, calculation, tabulation, or any other aspect of the processing of the Proofs of Claim submitted herein, or otherwise involved in the administration or taxation of the Settlement Fund or the Net Settlement Fund (the "Released Persons"), from any and all claims arising out of such involvement, and bar all Class Members, whether or not they have received payment from the Net Settlement Fund, from making any further claim against the Net Settlement Fund or the Released Persons; and

(vi) Retain jurisdiction to consider any further applications concerning the administration of the Settlement, and such other and further relief as this Court deems appropriate.

Lead Counsel conferred with Defendants' Counsel and was advised that Defendants do not oppose Lead Plaintiffs' motion for entry of the proposed Order Approving Final Distribution Plan.

Dated: April 27, 2010

Respectfully submitted,

**BERNSTEIN LITOWITZ BERGER
& GROSSMANN LLP**

By: /s/ Edward A. Grossmann

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